

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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D

HOUSE DRH30200-LB-184 (3/26)

Short Title: Later Primary.

(Public)

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Sponsors: Representative Gorman.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A LATER PRIMARY WITH NO SECOND PRIMARY.

The General Assembly of North Carolina enacts:

**PART I. MOVE PRIMARY TO SEPTEMBER; CANDIDATE FILING DEADLINE IN JULY; ABOLISH SECOND PRIMARY**

**SECTION 1.** G.S. 163-1(b) reads as rewritten:

"(b) On ~~Tuesday next after the first Monday in May~~ the first Tuesday in September preceding each general election to be held in November for the officers referred to in subsection (a) of this section, there shall be held in all election precincts within the territory for which the officers are to be elected a primary election for the purpose of nominating candidates for each political party in the State for those ~~offices.~~ offices, except that if that day is the day after Labor Day, it shall be held on the second Tuesday in September."

**SECTION 2.** G.S. 163-106(c) reads as rewritten:

"(c) Time for Filing Notice of Candidacy. – Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the second Monday in ~~February~~ June and no later than 12:00 noon on the ~~last business day in February~~ second Monday in July preceding the primary:

Governor

Lieutenant Governor

All State executive officers

United States Senators

Members of the House of Representatives of the United States

District attorneys

Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the county board of elections no earlier than 12:00 noon

1 on the second Monday in ~~February~~ June and no later than 12:00 noon on the last  
2 ~~business day in February~~ second Monday in July preceding the primary:

3 State Senators

4 Members of the State House of Representatives

5 All county offices."

6 **SECTION 3.** G.S. 163-111 reads as rewritten:

7 "**§ 163-111. Determination of primary results; ~~second primaries~~ results.**

8 (a) Nomination Determined by ~~Substantial~~ Plurality; Definition of ~~Substantial~~  
9 Plurality. – Except as otherwise provided in this section, nominations in primary  
10 elections shall be determined by a ~~substantial~~ plurality of the votes cast. A ~~substantial~~  
11 plurality within the meaning of this section shall be determined as follows:

12 (1) ~~If a nominee for a single office is to be selected, and there is more than~~  
13 ~~one person seeking nomination, the substantial plurality shall be~~  
14 ~~ascertained by multiplying the total vote cast for all aspirants by forty~~  
15 ~~percent (40%). Any excess of the sum so ascertained shall be a~~  
16 ~~substantial plurality, and the aspirant who obtains a substantial~~  
17 ~~plurality shall be declared the nominee. If two candidates receive a~~  
18 ~~substantial plurality, the candidate receiving the highest vote shall be~~  
19 ~~declared the nominee. When more than one person is seeking election~~  
20 ~~to a single office, the candidate who receives the highest number of~~  
21 ~~votes shall be declared elected.~~

22 (2) ~~If nominees for two or more offices (constituting a group) are to be~~  
23 ~~selected, and there are more persons seeking nomination than there are~~  
24 ~~offices, the substantial plurality shall be ascertained by dividing the~~  
25 ~~total vote cast for all aspirants by the number of positions to be filled,~~  
26 ~~and by multiplying the result by forty percent (40%). Any excess of~~  
27 ~~the sum so ascertained shall be a substantial plurality, and the aspirants~~  
28 ~~who obtain a substantial plurality shall be declared the nominees. If~~  
29 ~~more candidates obtain a substantial plurality than there are positions~~  
30 ~~to be filled, those having the highest vote (equal to the number of~~  
31 ~~positions to be filled) shall be declared the nominees. When more~~  
32 ~~persons are seeking election to two or more offices (constituting a~~  
33 ~~group) than there are offices to be filled, those candidates receiving the~~  
34 ~~highest number of votes, equal in number to the number of offices to~~  
35 ~~be filled, shall be declared elected.~~

36 (3) ~~If two or more candidates receiving the highest number of votes each~~  
37 ~~receive the same number of votes, the board of elections shall~~  
38 ~~determine the winner by lot.~~

39 (b) ~~Right to Demand Second Primary.~~ – If an insufficient number of aspirants  
40 receive a ~~substantial plurality of the votes cast for a given office or group of offices in a~~  
41 ~~primary, a second primary, subject to the conditions specified in this section, shall be~~  
42 ~~held:~~

43 (1) ~~If a nominee for a single office is to be selected and no aspirant~~  
44 ~~receives a substantial plurality of the votes cast, the aspirant receiving~~

1           the highest number of votes shall be declared nominated by the  
2           appropriate board of elections unless the aspirant receiving the second  
3           highest number of votes shall request a second primary in accordance  
4           with the provisions of subsection (c) of this section. In the second  
5           primary only the two aspirants who received the highest and next  
6           highest number of votes shall be voted for.

7           (2) If nominees for two or more offices (constituting a group) are to be  
8           selected and aspirants for some or all of the positions within the group  
9           do not receive a substantial plurality of the votes, those candidates  
10          equal in number to the positions remaining to be filled and having the  
11          highest number of votes shall be declared the nominees unless some  
12          one or all of the aspirants equal in number to the positions remaining  
13          to be filled and having the second highest number of votes shall  
14          request a second primary in accordance with the provisions of  
15          subsection (c) of this section. In the second primary to select nominees  
16          for the positions in the group remaining to be filled, the names of all  
17          those candidates receiving the highest number of votes and all those  
18          receiving the second highest number of votes and demanding a second  
19          primary shall be printed on the ballot.

20          (c) Procedure for Requesting Second Primary.—

21          (1) A candidate who is apparently entitled to demand a second primary,  
22          according to the unofficial results, for one of the offices listed below,  
23          and desiring to do so, shall file a request for a second primary in  
24          writing or by telegram with the Executive Director of the State Board  
25          of Elections no later than 12:00 noon on the seventh day (including  
26          Saturdays and Sundays) following the date on which the primary was  
27          conducted, and such request shall be subject to the certification of the  
28          official results by the State Board of Elections. If the vote certification  
29          by the State Board of Elections determines that a candidate who was  
30          not originally thought to be eligible to call for a second primary is in  
31          fact eligible to call for a second primary, the Executive Director of the  
32          State Board of Elections shall immediately notify such candidate and  
33          permit him to exercise any options available to him within a 48 hour  
34          period following the notification:

35                  Governor,

36                  Lieutenant Governor,

37                  All State executive officers,

38                  District Attorneys of the General Court of Justice,

39                  United States Senators,

40                  Members of the United States House of Representatives,

41                  State Senators in multi-county senatorial districts, and

42                  Members of the State House of Representatives in multi-county  
43                  representative districts.

1           ~~(2) A candidate who is apparently entitled to demand a second primary,~~  
2           ~~according to the unofficial results, for one of the offices listed below~~  
3           ~~and desiring to do so, shall file a request for a second primary in~~  
4           ~~writing or by telegram with the chairman or director of the county~~  
5           ~~board of elections no later than 12:00 noon on the seventh day~~  
6           ~~(including Saturdays and Sundays) following the date on which the~~  
7           ~~primary was conducted, and such request shall be subject to the~~  
8           ~~certification of the official results by the county board of elections:~~

9                     ~~State Senators in single county senatorial districts,~~

10                    ~~Members of the State House of Representatives in~~  
11                    ~~single county representative districts, and~~

12                    ~~All county officers.~~

13           ~~(3) Immediately upon receipt of a request for a second primary the~~  
14           ~~appropriate board of elections, State or county, shall notify all~~  
15           ~~candidates entitled to participate in the second primary, by telephone~~  
16           ~~followed by written notice, that a second primary has been requested~~  
17           ~~and of the date of the second primary.~~

18       ~~(d) Tie Votes; How Determined.—~~

19           ~~(1) In the event of a tie for the highest number of votes in a first primary~~  
20           ~~between two candidates for party nomination for a single county, or~~  
21           ~~single county legislative district office, the board of elections of the~~  
22           ~~county in which the two candidates were voted for shall conduct a~~  
23           ~~recount and declare the results. If the recount shows a tie vote, a~~  
24           ~~second primary shall be held on the date prescribed in subsection (e) of~~  
25           ~~this section between the two candidates having an equal vote, unless~~  
26           ~~one of the aspirants, within three days after the result of the recount~~  
27           ~~has been officially declared, files a written notice of withdrawal with~~  
28           ~~the board of elections with which he filed notice of candidacy. Should~~  
29           ~~that be done, the remaining aspirant shall be declared the nominee. In~~  
30           ~~the event of a tie for the highest number of votes in a first primary~~  
31           ~~among more than two candidates for party nomination for one of the~~  
32           ~~offices mentioned in this subdivision, no recount shall be held, but all~~  
33           ~~of the tied candidates shall be entered in a second primary.~~

34           ~~(2) In the event of a tie for the highest number of votes in a first primary~~  
35           ~~between two candidates for a State office, for United States Senator, or~~  
36           ~~for any district office (including State Senator in a multi county~~  
37           ~~senatorial district and member of the State House of Representatives in~~  
38           ~~a multi county representative district), no recount shall be held solely~~  
39           ~~by reason of the tie, but the two candidates having an equal vote shall~~  
40           ~~be entered in a second primary to be held on the date prescribed in~~  
41           ~~subsection (e) of this section, unless one of the two candidates files a~~  
42           ~~written notice of withdrawal with the State Board of Elections within~~  
43           ~~three days after the result of the first primary has been officially~~  
44           ~~declared and published. Should that be done, the remaining aspirant~~

1 shall be declared the nominee. In the event of a tie for the highest  
2 number of votes in a first primary among more than two candidates for  
3 party nomination for one of the offices mentioned in this subdivision,  
4 no recount shall be held, but all of the tied candidates shall be entered  
5 in a second primary.

6 (3) In the event one candidate receives the highest number of votes cast in  
7 a first primary, but short of a substantial plurality, and two or more of  
8 the other candidates receive the second highest number of votes cast in  
9 an equal number, the proper board of elections shall declare the  
10 candidate having the highest vote to be the party nominee, unless all  
11 but one of the tied candidates give written notice of withdrawal to the  
12 proper board of elections within three days after the result of the first  
13 primary has been officially declared. If all but one of the tied  
14 candidates withdraw within the prescribed three day period, and the  
15 remaining candidate demands a second primary in accordance with the  
16 provisions of subsection (c) of this section, a second primary shall be  
17 held between the candidate who received the highest vote and the  
18 remaining candidate who received the second highest vote.

19 (e) Date of Second Primary; Procedures.— If a second primary is required under  
20 the provisions of this section, the appropriate board of elections, State or county, shall  
21 order that it be held four weeks after the first primary.

22 There shall be no registration of voters between the dates of the first and second  
23 primaries. Persons whose qualifications to register and vote mature after the day of the  
24 first primary and before the day of the second primary may register on the day of the  
25 second primary and, when thus registered, shall be entitled to vote in the second  
26 primary. The second primary is a continuation of the first primary and any voter who  
27 files a proper and timely affidavit of transfer of precinct, under the provisions of G.S.  
28 163-82.15, before the first primary may vote in the second primary without having to  
29 refile the affidavit of transfer if he is otherwise qualified to vote in the second primary.  
30 Subject to this provision for registration, the second primary shall be held under the  
31 laws, rules, and regulations provided for the first primary.

32 (f) No Third Primary Permitted.— In no case shall there be a third primary. The  
33 candidates receiving the highest number of votes in the second primary shall be  
34 nominated. If in a second primary there is a tie for the highest number of votes between  
35 two candidates, the proper party executive committee shall select the party nominee for  
36 the office in accordance with the provisions of G.S. 163-114."

## 37 PART II. CONFORMING CHANGES

### 38 SECTION 3.1. G.S. 163-22(k) reads as rewritten:

39 "(k) Notwithstanding the provisions contained in Article 20 or Article 21 of  
40 Chapter 163 the State Board of Elections shall be authorized, by resolution adopted  
41 prior to the printing of the primary ballots, to reduce the time by which absentee ballots  
42 are required to be printed and distributed for the primary election from 50 days to 45  
43 days to 35 days. This authority shall not be authorized for absentee ballots to be voted in  
44 the general election."

1           **SECTION 4.** G.S. 163-82.6(d) reads as rewritten:

2           "(d) Instances When Person May Register and Vote on Election Day. – If a person  
3 has become qualified to register and vote between the twenty-fifth day before an  
4 election and election day, then that person may apply to register on election day by  
5 submitting an application form described in G.S. 163-82.3(a) or (b) to:

- 6           (1) A member of the county board of elections;  
7           (2) The county director of elections; or  
8           (3) The chief judge or a judge of the precinct in which the person is  
9 eligible to vote,

10 and, if the application is approved, that person may vote the same day. The official in  
11 subdivisions (1) through (3) of this subsection to whom the application is submitted  
12 shall decide whether the applicant is eligible to vote. The applicant shall present to the  
13 official written or documentary evidence that the applicant is the person he represents  
14 himself to be. The official, if in doubt as to the right of the applicant to register, may  
15 require other evidence satisfactory to that official as to the applicant's qualifications. If  
16 the official determines that the person is eligible, the person shall be permitted to vote in  
17 the election and the county board shall add the person's name to the list of registered  
18 voters. If the official denies the application, the person shall be permitted to vote a  
19 challenged ballot under the provisions of G.S. 163-88.1, and may appeal the denial to  
20 the full county board of elections. The State Board of Elections shall promulgate rules  
21 for the county boards of elections to follow in hearing appeals for denial of election day  
22 applications to register. ~~No person shall be permitted to register on the day of a second  
23 primary unless he shall have become qualified to register and vote between the date of  
24 the first primary and the date of the succeeding second primary."~~

25           **SECTION 5.** G.S. 163-82.17(a) reads as rewritten:

26           "(a) Registrant's Duty to Report. – Any registrant who desires to have the record  
27 of his party affiliation or unaffiliated status changed on the registration list shall, no  
28 later than the last day for making application to register under G.S. 163-82.6 before the  
29 election, indicate the change on an application form as described in G.S. 163-82.3 or on  
30 a voter registration card described in G.S. 163-82.8. No registrant shall be permitted to  
31 change party affiliation or unaffiliated status for a ~~primary, second primary, primary~~ or  
32 special or general election after the deadline for registration applications for that  
33 election as set out in G.S. 163-82.6."

34           **SECTION 6.** G.S. 163-98 reads as rewritten:

35           "**§ 163-98. General election participation by new political party.**

36           In the first general election following the date on which a new political party  
37 qualifies under the provisions of G.S. 163-96, it shall be entitled to have the names of its  
38 candidates for national, State, congressional, and local offices printed on the official  
39 ballots.

40           For the first general election following the date on which it qualifies under G.S.  
41 163-96, a new political party shall select its candidates by party convention. Following  
42 adjournment of the nominating convention, but not later than the ~~first day of July~~ day of  
43 the primary under G.S. 163-1(b) prior to the general election, the president of the  
44 convention shall certify to the State Board of Elections the names of persons chosen in

1 the convention as the new party's candidates for State, congressional, and national  
 2 offices in the ensuing general election. The State Board of Elections shall print names  
 3 thus certified on the appropriate ballots as the nominees of the new party. The State  
 4 Board of Elections shall send to each county board of elections the list of any new party  
 5 candidates so that the county board can add those names to the appropriate ballot."

6 **SECTION 7.** G.S. 163-106(f) reads as rewritten:

7 "(f) Candidates required to file their notice of candidacy with the State Board of  
 8 Elections under subsection (c) of this section shall file along with their notice a  
 9 certificate signed by the chairman of the board of elections or the director of elections of  
 10 the county in which they are registered to vote, stating that the person is registered to  
 11 vote in that county, stating the party with which the person is affiliated, and that the  
 12 person has not changed his affiliation from another party or from unaffiliated within  
 13 three months prior to the filing deadline under subsection (c) of this section. In issuing  
 14 such certificate, the chairman or director shall check the registration records of the  
 15 county to verify such information. During the period commencing 36 hours immediately  
 16 preceding the filing deadline the State Board of Elections shall accept, on a conditional  
 17 basis, the notice of candidacy of a candidate who has failed to secure the verification  
 18 ordered herein subject to receipt of verification no later than three days following the  
 19 filing deadline. The State Board of Elections shall prescribe the form for such  
 20 certificate, and distribute it to each county board of elections no later than the last  
 21 Monday in ~~December of each odd-numbered~~ April of each even-numbered year."

22 **SECTION 8.** G.S. 163-114 reads as rewritten:

23 **"§ 163-114. Filling vacancies among party nominees occurring after nomination**  
 24 **and before election.**

25 If any person nominated as a candidate of a political party for one of the offices  
 26 listed below (either in a primary or convention or by virtue of having no opposition in a  
 27 primary) dies, resigns, or for any reason becomes ineligible or disqualified before the  
 28 date of the ensuing general election, the vacancy shall be filled by appointment  
 29 according to the following instructions:

30  
 31 Position

32  
 33  
 34 President  
 35 Vice President

Vacancy is to be filled by appointment  
 of national executive committee of  
 political party in which vacancy occurs

36  
 37  
 38 Presidential elector or  
 39 alternate elector  
 40 Any elective State office  
 41 United States Senator

Vacancy is to be filled by appointment  
 of State executive committee of  
 political party in which vacancy  
 occurs

42  
 43 A district office, including:  
 44 Member of the United States

Appropriate district executive  
 committee of political party in

1	House of Representatives	which vacancy occurs
2	District Attorney	
3	State Senator in a multi-county	
4	senatorial district	
5	Member of State House of	
6	Representatives in a multi-county	
7	representative district	
8		
9	State Senator in a single-county	County executive committee of
10	senatorial district	political party in which vacancy
11	Member of State House of	occurs, provided, in the case of the
12	Representatives in a single-county	State Senator or State
13	representative district	Representative in a single-county
14	Any elective county office	district where not all the county is
15		located in that district, then in voting,
16		only those members of the county
17		executive committee who reside within
18		the district shall vote

19

20 The party executive making a nomination in accordance with the provisions of this

21 section shall certify the name of its nominee to the chairman of the board of elections,

22 State or county, charged with the duty of printing the ballots on which the name is to

23 appear. If at the time a nomination is made under this section the general election ballots

24 have already been printed, the provisions of G.S. 163-165.3(c) shall apply. ~~If a vacancy~~

25 ~~occurs in a nomination of a political party and that vacancy arises from a cause other~~

26 ~~than death and the vacancy in nomination occurs more than 120 days before the general~~

27 ~~election, the vacancy in nomination may be filled under this section only if the~~

28 ~~appropriate executive committee certifies the name of the nominee in accordance with~~

29 ~~this paragraph at least 75 days before the general election.~~

30 In a county not all of which is located in one congressional district, in choosing the

31 congressional district executive committee member or members from that area of the

32 county, only the county convention delegates or county executive committee members

33 who reside within the area of the county which is within the congressional district may

34 vote.

35 In a county which is partly in a multi-county senatorial district or which is partly in a

36 multi-county House of Representatives district, in choosing that county's member or

37 members of the senatorial district executive committee or House of Representatives

38 district executive committee for the multi-county district, only the county convention

39 delegates or county executive committee members who reside within the area of the

40 county which is within that multi-county district may vote."

41 **SECTION 9.** G.S. 163-122(a) reads as rewritten:

42 "(a) Procedure for Having Name Printed on Ballot as Unaffiliated Candidate. –

43 Any qualified voter who seeks to have his name printed on the general election ballot as

44 an unaffiliated candidate shall:



- 1 (1) If the office is a statewide office, file written petitions with the State  
2 Board of Elections supporting his candidacy for a specified office.  
3 These petitions must be filed with the State Board of Elections on or  
4 before 12:00 noon on the last Friday in ~~June~~July preceding the general  
5 election and must be signed by qualified voters of the State equal in  
6 number to two percent (2%) of the total number of registered voters in  
7 the State as reflected by the most recent statistical report issued by the  
8 State Board of Elections. No later than 5:00 p.m. on the fifteenth day  
9 preceding the date the petitions are due to be filed with the State Board  
10 of Elections, each petition shall be presented to the chairman of the  
11 board of elections of the county in which the signatures were obtained.  
12 Provided the petitions are timely submitted, the chairman shall  
13 examine the names on the petition and place a check mark on the  
14 petition by the name of each signer who is qualified and registered to  
15 vote in his county and shall attach to the petition his signed certificate.  
16 Said certificates shall state that the signatures on the petition have been  
17 checked against the registration records and shall indicate the number  
18 of signers to be qualified and registered to vote in his county. The  
19 chairman shall return each petition, together with the certificate  
20 required in this section, to the person who presented it to him for  
21 checking. Verification by the chairman of the county board of  
22 elections shall be completed within two weeks from the date such  
23 petitions are presented.
- 24 (2) If the office is a district office comprised of two or more counties, file  
25 written petitions with the State Board of Elections supporting his  
26 candidacy for a specified office. These petitions must be filed with the  
27 State Board of Elections on or before 12:00 noon on the last Friday in  
28 ~~June~~July preceding the general election and must be signed by  
29 qualified voters of the district equal in number to four percent (4%) of  
30 the total number of registered voters in the district as reflected by the  
31 latest statistical report issued by the State Board of Elections. Each  
32 petition shall be presented to the chairman of the board of elections of  
33 the county in which the signatures were obtained. The chairman shall  
34 examine the names on the petition and the procedure for certification  
35 and deadline for submission to the county board shall be the same as  
36 specified in (1) above.
- 37 (3) If the office is a county office or a single county legislative district, file  
38 written petitions with the chairman or director of the county board of  
39 elections supporting his candidacy for a specified county office. These  
40 petitions must be filed with the county board of elections on or before  
41 12:00 noon on the last Friday in ~~June~~July preceding the general  
42 election and must be signed by qualified voters of the county equal in  
43 number to four percent (4%) of the total number of registered voters in  
44 the county as reflected by the most recent statistical report issued by

1 the State Board of Elections, except if the office is for a district  
2 consisting of less than the entire county and only the voters in that  
3 district vote for that office, the petitions must be signed by qualified  
4 voters of the district equal in number to four percent (4%) of the total  
5 number of voters in the district according to the most recent figures  
6 certified by the State Board of Elections. Each petition shall be  
7 presented to the chairman or director of the county board of elections.  
8 The chairman shall examine, or cause to be examined, the names on  
9 the petition and the procedure for certification shall be the same as  
10 specified in (1) above.

- 11 (4) If the office is a partisan municipal office, file written petitions with  
12 the chairman or director of the county board of elections in the county  
13 wherein the municipality is located supporting his candidacy for a  
14 specified municipal office. These petitions must be filed with the  
15 county board of elections on or before the time and date specified in  
16 G.S. 163-296 and must be signed by the number of qualified voters  
17 specified in G.S. 163-296. The procedure for certification shall be the  
18 same as specified in (1) above.

19 Upon compliance with the provisions of (1), (2), (3), or (4) of this subsection, the  
20 board of elections with which the petitions have been timely filed shall cause the  
21 unaffiliated candidate's name to be printed on the general election ballots in accordance  
22 with G.S. 163-140.

23 An individual whose name appeared on the ballot in a primary election preliminary  
24 to the general election shall not be eligible to have his name placed on the general  
25 election ballot as an unaffiliated candidate for the same office in that year."

26 **SECTION 10.** G.S. 163-123(c) reads as rewritten:

27 "(c) Petitions for Write-in Candidacy. – An applicant for write-in candidacy shall:

- 28 (1) If the office is a statewide office, file written petitions with the State  
29 Board of Elections supporting his candidacy for a specified office.  
30 These petitions shall be filed on or before noon on the ~~90th~~50th day  
31 before the general election. They shall be signed by 500 qualified  
32 voters of the State. No later than 5:00 p.m. on the fifteenth day  
33 preceding the date the petitions are due to be filed with the State Board  
34 of Elections, each petition shall be presented to the board of elections  
35 of the county in which the signatures were obtained. A petition  
36 presented to a county board of elections shall contain only names of  
37 voters registered in that county. Provided the petitions are timely  
38 submitted, the chairman of the county board of elections shall examine  
39 the names on the petition and place a check mark by the name of each  
40 signer who is qualified and registered to vote in his county. The  
41 chairman of the county board shall attach to the petition his signed  
42 certificate. On his certificate the chairman shall state that the  
43 signatures on the petition have been checked against the registration  
44 records and shall indicate the number of signers who are qualified and

1 registered to vote in his county and eligible to vote for that office. The  
2 chairman shall return each petition, together with the certificate  
3 required in this section, to the person who presented it to him for  
4 checking. The chairman of the county board shall complete the  
5 verification within two weeks from the date the petition is presented.

6 (2) If the office is a district office comprising all or part of two or more  
7 counties, file written petitions with the State Board of Elections  
8 supporting his candidacy for a specified office. These petitions must be  
9 filed with the State Board of Elections on or before noon on the ~~90th~~  
10 50th day before the general election and must be signed by 250  
11 qualified voters. Before being filed with the State Board of Elections,  
12 each petition shall be presented to the board of elections of the county  
13 in which the signatures were obtained. A petition presented to a county  
14 board of elections shall contain only names of voters registered in that  
15 county who are eligible to vote for that office. The chairman of the  
16 county board shall examine the names on the petition and the  
17 procedure for certification shall be the same as specified in subdivision  
18 (1).

19 (3) If the office is a county office, or is a school administrative unit office  
20 elected on a partisan basis, or is a legislative district consisting of a  
21 single county or a portion of a county, file written petitions with the  
22 county board of elections supporting his candidacy for a specified  
23 office. A petition presented to a county board of elections shall contain  
24 only names of voters registered in that county. These petitions must be  
25 filed on or before noon on the ~~90th~~50th day before the general election  
26 and must be signed by 100 qualified voters who are eligible to vote for  
27 the office, unless fewer than 5,000 persons are eligible to vote for the  
28 office as shown by the most recent records of the appropriate board of  
29 elections. If fewer than 5,000 persons are eligible to vote for the office,  
30 an applicant's petition must be signed by not less than one percent  
31 (1%) of those registered voters. Before being filed with the county  
32 board of elections, each petition shall be presented to the county board  
33 of elections for examination. The chairman of the county board of  
34 elections shall examine the names on the petition and the procedure for  
35 certification shall be the same as specified in subdivision (1)."

36 **SECTION 11.** G.S. 163-226(c) reads as rewritten:

37 "(c) The Term "Election". – As used in this Subchapter, unless the context clearly  
38 requires otherwise, the term "election" includes a general, primary, ~~second primary,~~  
39 runoff election, bond election, referendum, or special election."

40 **SECTION 12.** G.S. 163-227.1 is repealed.

41 **SECTION 13.** G.S. 163-227.3 reads as rewritten:

42 "**§ 163-227.3. Date by which absentee ballots must be available for voting.**

43 (a) A board of elections shall provide absentee ballots of the kinds needed ~~50-40~~  
44 days prior to the date on which the election shall be conducted unless ~~45~~ 35 days is

1 authorized by the State Board of Elections under G.S. 163-22(k) or there shall exist an  
2 appeal before the State Board or the courts not concluded, in which case the board shall  
3 provide the ballots as quickly as possible upon the conclusion of such an appeal.  
4 However, in the case of municipal elections, absentee ballots shall be made available no  
5 later than 30 days before an election. In every instance the board of elections shall exert  
6 every effort to provide absentee ballots, of the kinds needed by the date on which  
7 absentee voting is authorized to commence.

8 ~~(b) Second Primary.—The board of elections shall provide absentee ballots, of~~  
9 ~~the kinds needed, as quickly as possible after the ballot information for a second~~  
10 ~~primary has been determined."~~

11 **SECTION 14.** G.S. 163-255 reads as rewritten:

12 **"§ 163-255. Absentee voting at office of board of elections.**

13 Notwithstanding any other provisions of Chapter 163 of the General Statutes, any  
14 person eligible to vote an absentee ballot pursuant to G.S. 163-245 shall be permitted to  
15 vote an absentee ballot pursuant to G.S. 163-227.2 if the person has not already voted an  
16 absentee ballot which has been returned to the board of elections, and if he will not be in  
17 the county on the day of the primary or election.

18 In the event an absentee application or ballot has already been mailed to such person  
19 applying to vote pursuant to G.S. 163-227.2, the board of elections shall void the  
20 application and ballot unless the voted absentee ballot has been received by the board of  
21 elections. Such person shall be eligible to vote pursuant to G.S. 163-227.2 no later than  
22 5:00 P.M. on the day next preceding the ~~primary, second primary~~ primary or election."

23 **SECTION 15.** G.S. 163-278.6(8) reads as rewritten:

24 "(8) The term "election" means any general or special election, a first ~~or~~  
25 ~~second~~ primary, a run-off election, or an election to fill a vacancy. The  
26 term "election" shall not include any local or statewide referendum."

27 **SECTION 16.** G.S. 163-278.13(d) reads as rewritten:

28 "(d) For the purposes of this section, the term "an election" means any ~~primary,~~  
29 ~~second primary,~~ primary or general election in which the candidate or political  
30 committee may be involved, without regard to whether the candidate is opposed or  
31 unopposed in the election, ~~except that where a candidate is not on the ballot in a second~~  
32 ~~primary, that second primary is not "an election" with respect to that~~  
33 ~~candidate election."~~

34 **SECTION 17.** G.S. 163-278.13B(d) is repealed.

35 **SECTION 18.** G.S. 163-278.40B reads as rewritten:

36 **"§ 163-278.40B. Campaign report; partisan election.**

37 In any city election conducted on a partisan basis in accordance with G.S.  
38 163-279(a)(2) and 163-291, the following reports shall be filed in addition to the  
39 organizational report:

40 (1) Thirty-five-day Report. – The treasurer shall file a report with the  
41 board 35 days before the primary.

42 (1a) Pre-primary Report. – The treasurer shall file a report with the board  
43 no later than the tenth day preceding each primary election.

1 (2) Pre-election Report. – The treasurer shall file a report 10 days before  
2 the election, ~~unless a second primary is held and the candidate~~  
3 ~~appeared on the ballot in the second primary, in which case the report~~  
4 ~~shall be filed 10 days before the second primary election.~~

5 (3) Repealed by Session Laws 1985, c. 164, s. 2.

6 (4) Semiannual Reports. – If contributions are received or expenditures  
7 made during any part of a calendar year, for which no reports are  
8 otherwise required by this section, any and all those contributions and  
9 expenditures shall be reported on semiannual reports due on the last  
10 Friday in July, covering the period through June 30, and due on the last  
11 Friday in January, covering the period through December 31 of the  
12 previous year."

13 **SECTION 19.** G.S. 163-279(a) reads as rewritten:

14 "(a) Primaries and elections for offices filled by election of the people in cities,  
15 towns, incorporated villages, and special districts shall be held in 1973 and every two or  
16 four years thereafter as provided by municipal charter on the following days:

17 (1) If the election is nonpartisan and decided by simple plurality, the  
18 election shall be held on Tuesday after the first Monday in November.

19 (2) If the election is partisan, the election shall be held on Tuesday after  
20 the first Monday in November, and the first primary shall be held on  
21 the ~~sixth-fourth~~ Tuesday before the election, ~~and the second primary, if~~  
22 ~~required, shall be held on the third Tuesday before the election.~~

23 (3) If the election is nonpartisan and the nonpartisan primary method of  
24 election is used, the election shall be held on Tuesday after the first  
25 Monday in November and the nonpartisan primary shall be held on the  
26 fourth Tuesday before the election.

27 (4) If the election is nonpartisan and the election and runoff election  
28 method of election is used, the election shall be held on the fourth  
29 Tuesday before the Tuesday after the first Monday in November, and  
30 the runoff election, if required, shall be held on Tuesday after the first  
31 Monday in November."

32 **SECTION 20.** G.S. 163-291 reads as rewritten:

33 **"§ 163-291. Partisan primaries and elections.**

34 The nomination of candidates for office in cities, towns, villages, and special  
35 districts whose elections are conducted on a partisan basis shall be governed by the  
36 provisions of this Chapter applicable to the nomination of county officers, and the terms  
37 "county board of elections," "chairman of the county board of elections," "county  
38 officers," and similar terms shall be construed with respect to municipal elections to  
39 mean the appropriate municipal officers and candidates, except that:

40 (1) The dates of primary and election shall be as provided in G.S.  
41 163-279.

42 (2) A candidate seeking party nomination for municipal or district office  
43 shall file his notice of candidacy with the board of elections no earlier  
44 than 12:00 noon on the first Friday in July and no later than 12:00

1 noon on the first Friday in August preceding the election. ~~election,~~  
2 ~~except:~~

3 a. ~~In 2001 a candidate seeking party nomination for municipal or~~  
4 ~~district office in any city which elects members of its governing~~  
5 ~~board on a district basis, or requires that candidates reside in a~~  
6 ~~district in order to run, shall file his notice of candidacy with the~~  
7 ~~board of elections no earlier than 12:00 noon on the fourth~~  
8 ~~Monday in July and no later than 12:00 noon on the second~~  
9 ~~Friday in August preceding the election; and~~

10 b. ~~In 2002 if the election is held then under G.S. 160A-23.1, a~~  
11 ~~candidate seeking party nomination for municipal or district~~  
12 ~~office shall file his notice of candidacy with the board of~~  
13 ~~elections at the same time as notices of candidacy for county~~  
14 ~~officers are required to be filed under G.S. 163-106.~~

15 No person may file a notice of candidacy for more than one  
16 municipal office at the same election. If a person has filed a notice of  
17 candidacy for one office with the county board of elections under this  
18 section, then a notice of candidacy may not later be filed for any other  
19 municipal office for that election unless the notice of candidacy for the  
20 first office is withdrawn first.

21 (3) The filing fee for municipal and district primaries shall be fixed by the  
22 governing board not later than the day before candidates are permitted  
23 to begin filing notices of candidacy. There shall be a minimum filing  
24 fee of five dollars (\$5.00). The governing board shall have the  
25 authority to set the filing fee at not less than five dollars (\$5.00) nor  
26 more than one percent (1%) of the annual salary of the office sought  
27 unless one percent (1%) of the annual salary of the office sought is less  
28 than five dollars (\$5.00), in which case the minimum filing fee of five  
29 dollars (\$5.00) will be charged. The fee shall be paid to the board of  
30 elections at the time notice of candidacy is filed.

31 (4) The municipal ballot may not be combined with any other ballot.

32 (5) The canvass of the primary ~~and second primary~~ shall be held on the  
33 third day (Sunday excepted) following the ~~primary or second primary~~.  
34 In accepting the filing of complaints concerning the conduct of an  
35 election, a board of elections shall be subject to the rules concerning  
36 Sundays and holidays set forth in G.S. 103-5.

37 (6) ~~Candidates having the right to demand a second primary shall do so~~  
38 ~~not later than 12:00 noon on the Monday following the canvass of the~~  
39 ~~first primary."~~

40 **SECTION 21.** Section 2 of Session Law 2002-21 Extra Session reads as  
41 rewritten:

42 "SECTION 2. If any members of any county board of education are elected at the  
43 primary election and take office under a local act in July after the primary, ~~in 2002 only,~~  
44 they shall instead take office on the same day in December after the primary, and the

1 terms of any such member which would otherwise expire in July of ~~2002~~2004 are  
2 extended accordingly."

3           **SECTION 22.** Any runoff election for local office that by local act is to be  
4 held on the date of the second primary shall instead be held on the date of the general  
5 election.

6           **SECTION 23.** If this act conflicts with the provisions of any local act, this  
7 act prevails to the extent of the conflict.

8           **SECTION 24.** This act becomes effective January 1, 2004.